

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 Capitol Mall, 17th Floor
Sacramento, California 95814

NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING

File No. REG-2006-00002

Notice Date: August 18, 2006

Proposed Revisions to the Insurance Commissioner's Regulations pertaining to the Classification of Risks; Recording and Reporting of Data; Statistical Reporting and Experience Rating; and Approval of Advisory Pure Premium Rates to be effective January 1, 2007.

SUBJECT OF HEARING

Notice is hereby given that the Insurance Commissioner will hold a public hearing to consider (1) amendments to the California Workers' Compensation Uniform Statistical Reporting Plan—1995, (2) amendments to the California Workers' Compensation Experience Rating Plan—1995, and (3) the approval of advisory pure premium rates developed by the designated rating organization. The hearing will be held in response to a filing, submitted on August 16, 2006, by the Workers' Compensation Insurance Rating Bureau of California ("WCIRB"). This filing will be supplemented on or about September 15, 2006 to include the proposed January 1, 2007 pure premium rates and supporting documentation.

AUTHORITY AND REFERENCE

Uniform Plans and Regulations

The workers' compensation classification of risks and statistical reporting rules are set forth in Title 10, California Code of Regulations, Section 2318.6. The workers' compensation experience rating regulations are set forth in Title 10, California Code of Regulations, Section 2353.1. The regulations were promulgated by the Insurance Commissioner pursuant to the authority granted by Insurance Code Section 11734.

Pure Premium Rates

Pursuant to Insurance Code Section 11750.3, a rating organization is permitted to develop pure premium rates for submission to the Insurance Commissioner for issuance or approval. The Insurance Code provisions regarding State rate supervision operative January 1, 1995 do not authorize the Insurance Commissioner to require insurers to use the pure premium rates submitted by the designated rating organization and issued or approved by the Insurance Commissioner. Accordingly, the pure premium rates issued or approved by the Insurance Commissioner are advisory only.

Advisory Rating Plans

Pursuant to Insurance Code Sections 11750.3(a) and 11750.3(c), a licensed rating organization may promulgate advisory plans in connection with pure premium rates and the administration of classification and rating systems and present them to the Insurance Commissioner for review.

HEARING DATE AND LOCATION

A public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the matters proposed in the WCIRB's filing, at the following date, time and place:

**September 28, 2006 – 9:30 A.M.
California Department of Insurance
22nd Floor Hearing Room
45 Fremont Street
San Francisco, California**

INFORMATIVE DIGEST

Pursuant to Insurance Code Sections 11734 and 11751.5, the Insurance Commissioner has designated the WCIRB as his rating organization and statistical agent. As the designated rating organization and statistical agent, the WCIRB has developed and submitted for the Insurance Commissioner's approval revisions to the California Workers' Compensation Uniform Statistical Reporting Plan—1995 and the California Workers' Compensation Experience Rating Plan—1995. The WCIRB has advised that proposed changes to the pure premium rates will be submitted for the Insurance Commissioner's approval on or about September 15, 2006. The pure premium rates are advisory only; however, adherence to the regulations contained in the California Workers' Compensation Uniform Statistical Reporting Plan—1995 and the California Workers' Compensation Experience Rating Plan—1995 is mandatory. With regard to the standard classification system developed by the designated rating organization and approved by the Insurance Commissioner, Insurance Code Section 11734 provides that an insurer may develop its own classification system if it is filed with the Insurance Commissioner 30 days prior to its use and is not disapproved by the Insurance Commissioner for failure to demonstrate that the data produced by the insurer's classification system can be reported consistently with the California Workers' Compensation Uniform Statistical Reporting Plan—1995 or the standard classification system developed by the WCIRB and approved by the Insurance Commissioner.

The amendments to the California Workers' Compensation Uniform Statistical Reporting Plan—1995 and the California Workers' Compensation Experience Rating Plan—1995 recommended by the WCIRB to be effective January 1, 2007 are detailed in the WCIRB's filing and summarized below.

AMEND THE CALIFORNIA WORKERS' COMPENSATION UNIFORM STATISTICAL REPORTING PLAN—1995

The WCIRB recommends that the following revisions to the California Workers' Compensation Uniform Statistical Reporting Plan—1995 become effective January 1, 2007 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2007:

- Amend Part 3, *Standard Classification System*, Section VI, *Administration of Classification System*, Rule 4, *Audit of Payroll*, to decrease the physical audit threshold to reflect wage inflation and changes in insurer rate levels since the threshold was last amended.
- Amend the minimum and maximum payroll limitations for executive officers, partners, individual employers and members of a limited liability company, as well as other payroll limitations relevant to specific classifications (e.g., department stores, athletic teams and entertainment classifications), to reflect the increase in wage levels that has occurred since the minimum and maximum payroll limitations were amended on January 1, 2006.
- Amend Classification 7365, *Taxicab Operations – all employees*, to increase the minimum annual payroll per taxicab from \$24,700 per year to \$25,300 to reflect wage inflation since the last time the amount was adjusted on January 1, 2006.
- Amend the dual wage construction classifications noted below to increase the wage threshold by \$1 to reflect wage inflation since the last time the thresholds were amended:

Automatic Sprinkler Installation (Classifications 5185/5186)
Carpentry (Classifications 5645/5697)
Carpentry (Classifications 5403/5432)
Concrete or Cement Work (Classifications 5201/5205)
Electrical Wiring (Classifications 5190/5140)
Gas Mains or Connections Construction (Classifications 6315/6316)
Glaziers (Classifications 5467/5470)
Masonry (Classifications 5027/5028)
Painting (Classifications 5474/5482)
Plastering or Stucco Work (Classifications 5484/5485)
Roofing (Classifications 5552/5553)
Sewer Construction (Classifications 6307/6308)
Sheet Metal Work (Classifications 5538/5542)
Steel Framing – light gauge – residential (Classifications 5630/5631)
Steel Framing – light gauge – commercial (Classifications 5632/5633)
Wallboard Application (Classifications 5446/5447)
Water Mains or Connections Construction (Classifications 6315/6316)
Waterproofing (Classifications 5474/5482)

- Establish a new classification applicable to mortgage bankers.

- Amend Classification 8019, *Printing – quick printing or photocopying*, to limit the application of this classification to firms engaged in quick printing and add a suffix (1) to reflect the establishment of the sub-classification 8019(2) proposed elsewhere in this filing.
- Establish a new sub-classification within the Printing, Publishing and Duplicating industry group to clarify how firms engaged in document duplication or photocopying services are to be assigned.
- Eliminate Classification 4414, *Rubber Tire Mfg.*, due to inadequate statistical credibility.
- Amend Part 4, *Unit Statistical Report Filing Requirements*, Section I, *General Instructions*, Rule 2, *Effective Date*, Rule 6, *Date of Valuation*, and Rule 7, *Date of Filing*, to require the filing of sixth through tenth level unit statistical reports in order to enhance data accuracy and to provide more information regarding loss development patterns.
- Amend Part 4, *Unit Statistical Report Filing Requirements*, Section II, *Definitions*, Rule 11, *Final Premium(s)*, to account for the extension of the Terrorism Risk Insurance Act of 2002 and to conform to similar changes proposed in the *California Workers' Compensation Experience Rating Plan—1995*.
- Amend Part 4, *Unit Statistical Report Filing Requirements*, Section II, *Definitions*, Rule 22, *Medical Loss(es)*, to clarify that costs or fees related to Medicare Set-asides should be reported as medical losses.
- Amend Part 4, *Unit Statistical Report Filing Requirements*, Section III, *Policy Information (Header)*, Rule 1, *Report Number (Report No.)*, to require the filing of sixth through tenth level unit statistical reports in order to enhance data accuracy and to provide more information regarding loss development patterns.
- Amend Part 4, *Unit Statistical Report Filing Requirements*, Section V, *Loss Information*, Subsection A, *General Loss Reporting Instructions*, Rule 3, *Grouped vs. Individual Claim Reporting*, Subpart a, *Grouped Claim Reporting*, to accommodate the sixth through tenth unit statistical report filing requirements in order to enhance data accuracy and to provide more information regarding loss development patterns.
- Amend Part 4, *Unit Statistical Report Filing Requirements*, Section VI, *Subsequent Reports, Correction Reports, and Reporting Methods*, Rule 1, *Subsequent Reports*, to accommodate the sixth through tenth unit statistical report filing requirements and for clarity in order to enhance data accuracy and to provide more information regarding loss development patterns.
- Amend the USRP for clarity and consistency.

AMEND CALIFORNIA WORKERS' COMPENSATION EXPERIENCE RATING PLAN—1995

The WCIRB recommends the following revisions to the California Workers' Compensation Experience Rating Plan—1995 to become effective January 1, 2007 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2007.

When the WCIRB submits its proposed pure premium rates on or about September 15, 2006, it will also recommend an amendment to Section III, *Eligibility and Experience Period*, Rule 1, *Eligibility Requirements for California Workers' Compensation Insurance*, to adjust the eligibility requirement to reflect the changes in the proposed pure premium rates.

- Amend Section I, *General Provisions*, Rule 6, *Subterfuge*, to clarify that evasion of the promulgation of an experience modification is prohibited and to remove the reference to the Inquiries, Complaints and Requests for Action, Reconsideration and Appeals rule because the reference is redundant.
- Amend Section II, *Definitions*, Paragraph 2, *Base Premium*, to reference the extension of the Terrorism Risk Insurance Act of 2002.
- Amend Section III, *Eligibility and Experience Period*, Rule 3, *Experience to be Used for Rating California Workers' Compensation Insurance Risks*, to explicitly indicate that unaudited payroll shall not be used to rate a risk.
- Amend Section VI, *Tabulation of Experience*, Rule 4, *Losses*, to delete Rule 4j pertaining to post-termination claims with accident dates prior to July 16, 1993 as such claims are no longer used in experience rating and to reference the extension of the Terrorism Risk Insurance Act of 2002 in Rule 4.
- Eliminate Section VI, *Tabulation of Experience*, Rule 11, *Post-Termination Claims*, as such claims with accident dates prior to July 16, 1993 are no longer used in experience rating.
- Amend Section VI, *Tabulation of Experience*, Rule 12, *Mental-Mental and Terrorism Claims*, to remove references to mental-mental claims with accident dates prior to July 16, 1993 since such claims are no longer used in experience rating and to reference the extension of the Terrorism Risk Insurance Act of 2002.
- Amend Section VI, *Tabulation of Experience*, Rule 13, *Closed Claims*, to conform to the recommended changes to the USRP regarding the addition of the sixth through tenth unit statistical report filing requirements.
- Eliminate Section VI, *Tabulation of Experience*, Rule 14b(2), *Revision of Losses*, to eliminate the reference to post-termination claims and mental-mental claims with accident dates prior to July 16, 1993, since such claims are no longer used in experience rating.

- Amend the expected loss rates and D-ratios to reflect the most current data available.
- Amend the average death value to reflect the most current data available.

APPROVE PURE PREMIUM RATES

Pursuant to California Insurance Code Section 11750.3(b), the WCIRB has proposed to present pure premium rates for approval by the Insurance Commissioner to be effective January 1, 2007 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2007. On or about September 15, 2006, the WCIRB will provide their final recommendations for the advisory pure premium rates, which is pending receipt of data. The Insurance Commissioner shall consider the WCIRB's proposal during the September 28, 2006 hearing and will approve, disapprove or modify the proposed pure premium rates based upon the evidence presented and the comments received prior to the closing of the record in this matter.

WCIRB ADVISORY PLANS

CALIFORNIA INSOLVENT INSURER RATING ADJUSTMENT PLAN

The WCIRB has adopted the following revisions to the California Insolvent Insurer Rating Adjustment Plan. The amendments will become effective January 1, 2007:

- Amend *Table 1 – Expected Indemnity Claim Frequency Rates (Per Million Dollars of Payroll)*, to reflect updated claim and payroll experience and amendments to the Standard Classification System.
- Amend *Table 2 – Rating Values*, to reflect updated claim and payroll experience and amendments to the Standard Classification System.

COSTS OR SAVINGS RESULTING FROM THE REGULATIONS

The Insurance Commissioner is authorized by law to promulgate advisory loss cost rates. These rates may or may not be adopted by insurance companies. To the extent they are adopted, they may result in higher or lower costs.

COST OR SAVINGS AND MANDATE TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Insurance Commissioner has determined that there will not be a cost increase or savings and there will not be any new programs mandated on any local agency or school district as a result of the proposed regulations, if adopted as proposed herein.

IMPACT ON HOUSING COSTS

The Insurance Commissioner has determined that the proposed regulations will not have a significant effect on housing costs.

IMPACT ON SMALL BUSINESSES

The Insurance Commissioner has determined that the proposed regulations will not have a significant effect on small businesses.

COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The Insurance Commissioner must determine the potential cost impact of the proposed regulations on private persons or businesses directly affected by the proposal. At this time, the Insurance Commissioner expects that the proposed regulations may not have a significant effect on private persons or entities.

FEDERAL FUNDING TO THE STATE

The matters proposed herein will not affect any federal funding.

NON-DISCRETIONARY COSTS OR SAVINGS

The proposed regulations will not impose any non-discretionary costs or savings to local agencies.

COST OR SAVINGS TO STATE AGENCIES

The matters proposed herein will not result in any cost or savings to State agencies, except for the State Compensation Insurance Fund.

REIMBURSABLE COSTS

There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations.

ACCESS TO HEARING ROOMS

The facility to be used for the public hearing is accessible to persons with mobility impairment. Persons with sight or hearing impairments are requested to notify the contact person for these hearings (listed below) in order to make special arrangements, if necessary.

PRESENTATION OF ORAL AND/OR WRITTEN COMMENTS

All persons are invited to submit written comments to the Insurance Commissioner prior to the public hearing on the proposed amendments contained in the WCIRB's filing. Such comments should be addressed to:

California Department of Insurance
Attn: Christopher A. Citko
Senior Staff Counsel
300 Capitol Mall, 17th Floor
Sacramento, CA 95814
(916) 492-3187

Any interested person may present oral and/or written testimony at the scheduled public hearing. Written comments and oral testimony will be given equal weight in the Insurance Commissioner's deliberations.

DEADLINE FOR WRITTEN COMMENTS

All written material, unless submitted at the hearing, must be received by the Insurance Commissioner at the address listed above no later than 5:00 PM on Thursday, October 5, 2006.

TEXT OF REGULATIONS AND STATEMENT OF REASONS AVAILABLE

The Insurance Commissioner has prepared an Initial Statement of Reasons for the proposed regulations, in addition to the informative digest included in this Notice of Proposed Action and Notice of Public Hearing. The express terms of the proposed regulations as contained in the WCIRB's filing, the Notice of Proposed Action and Notice of Public Hearing and the Initial Statement of Reasons will be made available for inspection or provided without charge upon written request to the contact person for these hearings (listed above). The filing may also be accessed on the WCIRB's website at www.wcirbonline.org/filings.

ACCESS TO RULE MAKING FILE, CONTACT

Any interested person may inspect a copy of or direct questions about the proposed regulations or other matters relative to this filing, the statement of reasons thereof, and any supplemental information contained in the rule-making file upon application to the contact person (listed above). The rule-making file will be available for inspection at 300 Capitol Mall, 17th Floor, Sacramento, California 95814, between the hours of 9:00 AM and 4:30 PM, Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the informative digest that contains the general substance of the proposed regulations, automatically will be sent to all persons on the Insurance Commissioner's Bulletins and Rulings, and California Government Code mailing lists.

ADOPTION OF REGULATIONS

Following the hearing, the Insurance Commissioner may adopt or approve regulations substantially as described in this Notice and informative digest or he may adopt or approve modified regulations. He also may refuse to adopt or approve the regulations. Notice of the Insurance Commissioner's action will be sent to all persons on the Insurance Commissioner's Bulletins and Rulings mailing list and to those persons who have otherwise requested notice of the Commissioner's action.

Dated: August 18, 2006

JOHN GARAMENDI
Insurance Commissioner

By _____/s/
Christopher A. Citko
Senior Staff Counsel